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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/650,896

08/28/2003

Carolyn A. Zacks

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7590

11/13/2006

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EXAMINER

PIZIALI, JEFFREY J

ART UNIT

PAPER NUMBER

2629

DATE MAILED: 11/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notice of Non-Compliant
Amendment (37 CFR 1.121)**

Application No.

10/650,896

Examiner

Jeff Piziali

Applicant(s)

ZACKS ET AL.

Art Unit

2629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 28 August 2006 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____.
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____.
- ☒ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - ☒ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - ☒ C. Other See Continuation Sheet.
- ☐ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☐ E. Other: _____.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Legal Instruments Examiner (LIE), if applicable

Telephone No.

Continuation of 3(c) Other:

Firstly, the applicants are thanked for the 'Response to Notice of Non-Compliant Amendment' filed 28 August 2006. However, several seemingly non-compliant amendments have been discovered in the aforementioned response, requiring attention before examination may continue.

37 CFR § 1.121(d) requires, "All changes to the drawings shall be explained, in detail, in either the drawing amendment or remarks section of the amendment paper."

37 CFR § 1.121(d) further requires, "Any changes to an application drawing must be in compliance with § 1.84 and must be submitted on a replacement sheet of drawings which shall be an attachment to the amendment document and, in the top margin, labeled "Replacement Sheet". Any replacement sheet of drawings shall include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is amended."

See also MPEP § 714(II)(D) which requires, "An explanation of the changes made must be presented in the 'Amendments to the Drawings' or the remarks section of the amendment document."

MPEP § 714(II)(D) further requires, "Any changes to an application drawing must comply with 37 CFR 1.84 and must be submitted on a replacement sheet of drawings, even when applicant is only submitting better quality drawings without any substantive changes."

In contrast, the 'Response to Notice of Non-Compliant Amendment' filed 28 August 2006 only includes "Annotated Sheets," and neglects to provide any replacement drawing sheets.

The replacement drawing sheets (earlier filed on 9 May 2006) were deemed non-compliant due to lacking a detailed explanation of the drawing changes.


The examiner respectfully requests that the applicants please submit a full and complete set of replacement drawing sheets (incorporating all the changes that the applicants wish to make); along with a detailed explanation of all changes being made to the drawings in either the drawing amendment or remarks section of the amendment paper.

The applicants are welcome (but not required) to also include annotated drawing sheets [see 37 CFR § 1.121(d)(1)]. However, such "Annotated Sheets" should indicate the drawing changes made relative to the originally submitted drawings (filed 28 August 2003); because the replacement drawing sheets (filed on 9 May 2006) were deemed non-compliant (on 25 July 2006) and are therefore officially unentered at this time.

By such reasoning, this Notice of Non-Compliance is deemed necessary and proper at this time.

Please note: The amendments have not been checked to the extent necessary to determine the presence of all possible non-compliance errors. If additional issues of non-compliance are discovered in a subsequent amendment, yet another Notice of Non-Compliant Amendment will unfortunately be necessitated. Applicants' cooperation is requested in correcting any other errors of which applicants may become aware.

The applicants are hereby notified that the examiner's art unit has recently changed from Art Unit 2673 to Art Unit 2629, please direct all future correspondence accordingly. Thank you.



Jeff Piziali

6 November 2006